

NOTICE IS HEREBY GIVEN THAT THE Bernalillo County Board of Commissioners on May 28, 2013 at the hour of 5:00 p.m., at the Vincent E. Griego Chambers, One Civic Plaza NW, Albuquerque, New Mexico 87102, will consider adopting amendments to the following Ordinance: **“AN ORDINANCE ESTABLISHING A MANAGEMENT OVERSIGHT SYSTEM FOR BERNALILLO COUNTY DETENTION FACILITIES..”**

AMENDMENTS WERE MADE April 23, 2013 AT THE ADMINISTRATIVE COMMISSION MEETING
INCLUDE:

BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A MANAGEMENT OVERSIGHT SYSTEM FOR BERNALILLO COUNTY DETENTION FACILITIES.

WHEREAS, this ordinance is enacted under the authority of NMSA 1978, §§ 3-17-1, 4-37-1, 33-3-1, and 33-3-4, and this ordinance shall be known as the Detention Facility Oversight Ordinance; and,

WHEREAS, the Bernalillo County Commission, as the governing body of this County, has the duty to operate and inspect the overall conditions of its detention facilities under NMSA 1978 §§ 33-3-1 and 33-3-4; and,

WHEREAS, the County has a statutory duty to house all prisoners lawfully committed to detention facilities, and the prisoners cannot be turned away; and,

WHEREAS, the demands of operating a facility for maintaining custody of both arrested prisoners facing criminal charges and convicted prisoners, in the largest County in the State of New Mexico, requires more oversight than annual Commission site visits as currently required by State Statute; and,

WHEREAS, Bernalillo County has been defending allegations of operating an unconstitutional detention facility since 1995 at great expense and burden to the citizens of Bernalillo County; and,

WHEREAS, the federal case of McClendon v. City of Albuquerque, et al, USDC No. CIV 95-0024, has not been able to be successfully resolved despite the best efforts of the County because of the inability to operate the detention facility within the 2,236 prisoner design capacity of the Detention Center; and,

WHEREAS, operating the Metropolitan Detention Center (MDC) costs the citizens of Bernalillo County approximately \$63,670,520 annually; the litigation expenses of the McClendon case add an additional expense of over \$1 Million Dollars annually; and,

WHEREAS, the Bernalillo County Commission has a duty to operate detention facilities in a manner that is consistent with the United States Constitution, while at the same time keeping the public and the persons who work in the facility protected; and,

WHEREAS, the Detention Facility Oversight Ordinance will provide a tool for the Bernalillo County Commission to address management of adult detention facilities, and it shall read as follows:

Sec. 1. Short Title.

This Ordinance shall be known and may be cited as the 'Detention Facility Oversight Ordinance.'

Sec. 2. Purpose and Intent.

(a) It is the purpose of this Ordinance to create a system of oversight to ensure that county adult detention facilities operate in accordance with the United States Constitution and limit the population of adult detention facilities to the capacity they are designed for. The County Manager will look to nationally recognized best practices for jail operation to guide the operation of County detention facilities. At the time this ordinance is being enacted, the only adult detention center in Bernalillo County is the Metropolitan Detention Center (MDC). When this ordinance refers to MDC it will also apply to any new adult detention facilities opened by the County in the future.

(b) This Ordinance is promulgated pursuant to the County's authority under the New Mexico Constitution and applicable state statutes.

(c) Any approvals granted under this ordinance do not authorize or legalize any conduct, activity, or business that is illegal under city, county, state or federal law.

Sec. 3. Oversight.

(a) The County Manager shall contract with independent experts in the operation of adult detention facilities. These experts shall fulfill the role of providing regular independent oversight of Bernalillo County adult detention facilities through regular monitoring of their operation to ensure that the County is operating its detention facilities in accordance with the United States Constitution.

(b) At a minimum, the experts shall provide monitoring of operations, healthcare, and mental healthcare within MDC. The minimum standards to be met shall be those of the Constitution, but the experts are encouraged to also make suggestions based on national best practices.

(c) At a minimum, the experts will visit the MDC at least quarterly, and will make themselves available to county management to make recommendations on problems or concerns with respect to operations, healthcare and mental healthcare.

Sec. 4. Reporting.

(a) The experts shall submit annual written reports concerning their observations and recommendations to the County Manager in early January of each year, so that any recommendations and observations may be reviewed prior to the preparation of the next County budget. The Manager may ask for more frequent reports as necessary for appropriate oversight and management.

(b) The County Manager shall submit the experts' reports to the Commission at the second regular meeting in January for review, or at a special meeting in January.

Sec. 5. Population.

(a) The population of inmates in detention facilities directly correlates with the ability to operate a safe and efficient facility.

(b) To achieve a safe and efficient operation of the County's statutorily required jail function, the County Manager is hereby mandated to limit the population of adult detention facilities to the inmate capacity the facility was designed to accommodate.

(c) In 2013, the MDC is the sole County Jail. The design capacity of the MDC is 2,236 inmates.

(d) The County Manager is required to maintain detention facilities at or below their designed population capacity through all reasonable means necessary, including community custody; alternative programs for the housing, rehabilitation, medical care, mental healthcare, and/or alcohol and drug treatment of inmates; and the housing of inmates at other detention facilities outside of the County.

Sec. 6. Strategic Plan for Jail Population Management.

The County Manager shall establish a Strategic Plan to manage the County function of providing detention facilities. The Plan shall engage all of the law enforcement agencies, the Office of the District Attorney, the Office of the Public Defender and the state courts involved in the criminal justice system within the County in order to best plan to meet the real needs of the citizens of Bernalillo County. The first Plan will be prepared and presented to the Commission no later than one year from the date this Ordinance takes effect. The Plan shall be updated at least every five years thereafter.

Sec. 7. Funding of Criminal Justice System.

The County Manager is directed to engage all of the law enforcement agencies, the Office of the District Attorney, the Office of the Public Defender and the state courts involved in handling the

criminal justice system within the County to determine what financial resources identified in the strategic planning process are available from all of the parties and how those resources can best be utilized. The Manager shall seek to partner with the law enforcement agencies, the Office of the District Attorney, the Office of the Public Defender and the state courts through agreements to provide an efficient and safe system of processing criminal cases so as to properly manage the jail population and protect the public at the most reasonable cost possible.

Sec. 8. Severability Clause.

If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Commission hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.